

APR 27 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BADRI TEHRANI; JAVAD ROSTAMI
MOFRAD TEHRANI,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-73470

Agency Nos. A72-260-848
A75-702-886

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 5, 2006 **

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Badri Tehrani and her husband, natives and citizens of Iran, petition for review of an order of the Board of Immigration Appeals (“BIA”) affirming, without opinion, an immigration judge’s (“IJ”) decision denying their application

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). To the extent we have jurisdiction, it is pursuant to 8 U.S.C.

§ 1252. Reviewing purely legal questions de novo, *Vasquez-Zavala v. Ashcroft*, 324 F.3d 1105, 1107 (9th Cir. 2003), and the agency’s factual findings for substantial evidence, *Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004), we dismiss in part and deny in part the petition for review.

We lack jurisdiction to consider Tehrani’s contentions regarding the one-year deadline for filing her asylum application, as well as her contentions that the IJ committed legal error and denied her due process, as Tehrani, represented by counsel, failed to raise these contentions before the BIA. *See Zara v. Ashcroft*, 383 F.3d 927, 930-31 (9th Cir. 2004); *see also Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2003).

The IJ based her adverse credibility determination on significant omissions in Tehrani’s asylum application regarding the basis for her fear of persecution in Iran. The record does not compel a reasonable fact-finder to conclude that Tehrani is credible. *See Li*, 378 F.3d at 963. Accordingly, Tehrani is not entitled to withholding of removal or to protection under the CAT. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156-57 (9th Cir. 20003).

We grant Tehrani's motion, filed on November 4, 2005, to include her husband in her petition.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.